

BEFORE THE BOARD OF SPEECH-LANGUAGE PATHOLOGISTS
AND AUDIOLOGISTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed amendment) NOTICE OF PUBLIC HEARING
of ARM 24.222.301 definitions, 24.222.401) ON PROPOSED AMENDMENT,
fees, 24.222.501, 24.222.506, 24.222.510,) ADOPTION, AND REPEAL
and 24.222.513 licensing and scope of)
practice, 24.222.701, 24.222.702, and)
24.222.703 speech pathology and)
audiology aides, 24.222.2101, 24.222.2102)
and 24.222.2103 continuing education,)
24.222.2301 unprofessional conduct, the)
proposed adoption of NEW RULE I fee)
abatement, NEW RULES II-V, and the)
proposed repeal of 24.222.511, 24.222.512)
and 24.222.704 licensure of speech-)
language pathologists and audiologists)

TO: All Concerned Persons

1. On June 22, 2006, at 1:00 p.m., a public hearing will be held in room 489, Park Avenue Building, 301 South Park, Helena, Montana to consider the proposed amendment, adoption, and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Speech-Language Pathologists and Audiologists (board) no later than 5:00 p.m. on June 16, 2006, to advise us of the nature of the accommodation that you need. Please contact Helena Lee, Board of Speech-Language Pathologists and Audiologists, 301 South Park, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2385; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdspl@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: As part of the periodic review of its administrative rules, the board is proposing a substantial number of revisions. Some of the proposed amendments are technical in nature, such as substituting modern language for archaic phrasing, amending rule catchphrases for accuracy, reorganizing and renumbering rules for easier reference and following amendment, and updating obsolete or inappropriate statutory references. Other rule changes reflect a decision by the board to attempt to streamline its rules. Accordingly, the board determined that there is reasonable necessity to generally amend certain existing rules, repeal certain existing rules and adopt new rules at this time. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following that rule.

The 2005 Montana Legislature enacted Chapter 467, Laws of 2005 (House Bill 182), an act generally revising and consolidating professional and occupational licensing laws and distinguishing duties regarding licensure, examination and fees between the department and the particular boards or programs. The bill was signed by the Governor on April 28, 2005, and became effective July 1, 2005. It is reasonable and necessary to amend the rules throughout to maintain compliance with the statutory changes and to further the intent of the legislation.

The 2005 Montana Legislature enacted Chapter 262, Laws of 2005 (Senate Bill 451), an act revising speech-language pathologists and audiologists licensing laws. The bill was signed by the Governor on April 15, 2005 and became effective on October 1, 2005. It is reasonable and necessary to amend several board rules and adopt new rules to comply with the statutory changes and to further the intent of the legislation.

Authority and implementation cites are being amended where necessary to accurately reflect all statutes implemented through the rules, to provide the complete sources of the board's rulemaking authority and to delete references to erroneous or repealed statutes.

4. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.222.301 DEFINITIONS ~~(1) Currently practicing and/or actively engaged in practice shall be defined as minimum of 15 hours per week of active involvement in rendering clinical services to the public, teaching, performing research or in administration in the fields of speech-language pathology and/or audiology.~~

(2) ~~"Certificate of clinical competence" is interpreted as~~ means a current certificate.

(3) ~~"Colleges, universities, and institutions approved by the board", shall include~~ means those colleges, universities, and institutions accredited by the American board of examiners in speech-language pathology and audiology a nationally recognized accrediting agency approved by the board.

~~(4) Thirty days shall be defined as 30 clinical working days.~~

~~(5) (4) Whenever the term license~~ "License" is as used in these rules, it shall refer to means a valid Montana full status license ~~as issued under this act. It and does not imply include~~ probationary or temporary license licenses.

~~(6) (5) Speech-language pathology aides~~ or assistants shall be classified as in one of the following categories:

(a) ~~"aide I or assistant" shall mean~~ means a person who holds an undergraduate degree in communication sciences and disorders, or its equivalent, and is currently enrolled in an accredited graduate program for the purpose of completing licensure requirements. ~~The aide I shall submit verification of the required continuing education units set forth in ARM 24.222.2102 to the board annually;~~

(b) ~~"aide II or assistant" shall mean~~ means a person who holds an undergraduate degree in communication sciences and disorders, or its equivalent, but is not currently enrolled in an accredited graduate program. ~~The aide II shall submit verification of the required continuing education units set forth in ARM~~

~~24.222.2102 to the board annually; and~~

(c) "aide III or assistant" ~~shall mean~~ means a person who holds no undergraduate degree in communication sciences and disorders or its equivalent. ~~The aide III shall submit verification of the required continuing education units set forth in ARM 24.222.2102 to the board annually.~~

~~(7)~~ (1) Audiology aides or assistants shall be classified as in one of the following categories:

(a) "audiology aide or assistant" ~~shall mean~~ means a person meeting the minimum requirements established by the board who performs any of the activities defined under the "practice of audiology" definition of 37-15-102, MCA, under the supervision of a licensed audiologist; and

(b) "industrial audiology aide or assistant" ~~shall mean~~ means an audiology aide who conducts pure tone air conduction threshold audiograms for the purpose of industrial hearing tests in addition to other acts and services as provided in the statutes and rules.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-15-102, 37-15-202, 37-15-301, 37-15-303, 37-15-313, MCA

REASON: The board determined that it is reasonable and necessary to add "or assistant" to several sections of the rule. This amendment is needed to comply with statutory changes pursuant to Senate Bill 451, wherein the definitions of individuals meeting certain minimum requirements and working directly under the supervision of licensed speech-language pathologists or audiologists were amended to include aides or assistants.

24.222.401 FEES (1) through (2)(c)(i) remain the same.

(d) Placement or renewal of a license on inactive status for a speech-language pathologist and/or audiologist 50

(e) remains the same.

(f) Registration for speech-language pathologist aide or assistant and/or audiologist aide or assistant 30

~~(i) Late registration fee for aides is an additional \$20 for registrations made after October 31.~~

(g) remains the same.

~~(3) The yearly registration fee for the unlicensed person shall be consistent with the initial application and license fee for a speech language pathologist and/or audiologist. The yearly registration fee for an unlicensed person is \$100. The unlicensed person provisions of 37-15-313, MCA, terminate June 30, 2003.~~

AUTH: 37-1-134, 37-15-202, MCA

IMP: 37-1-134, 37-15-307, ~~37-15-308~~, and ~~37-15-313~~, MCA

REASON: It is reasonably necessary to delete the board's late renewal fee to comply with House Bill 182 that clarified that the department is responsible for setting administrative fees such as late registration and renewal fees.

The board is amending the rule to add "or assistant" to comply with statutory

changes pursuant to Senate Bill 451 that added assistants to the definitions of speech-language pathology aides and audiology aides.

It is reasonable and necessary to amend the rule to coincide with the proposed amendments to ARM 24.222.513 to require licensees on inactive status to renew annually. Currently, inactive status licensees pay a \$50.00 renewal fee for a five-year inactive licensure period. Board staff had difficulty utilizing the database parameters in tracking those on inactive status. For board fees to be commensurate with costs and to ensure a timely and accurate record of individuals on inactive status licensure, the board decided to require the annual renewal. Approximately four inactive status licensees per year will be affected by the rule change and will result in an estimated \$160.00 total annual increase in revenue.

House Bill 301 of the 1999 legislative session provided for the registration of unlicensed persons working in schools or special education cooperatives and terminated the registration provision effective June 30, 2003. It is reasonable and necessary to delete section (3) regarding the fee previously required for such registration to comply with the termination.

24.222.501 APPLICATIONS FOR LICENSE (1) An application for a license as a speech-language pathologist and/or audiologist shall be submitted to the board office in Helena on application forms provided by the ~~board~~ department.

(2) through (6) remain the same.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-1-101, 37-1-104, ~~37-15-302~~, MCA

REASON: It is reasonable and necessary to amend the rule to comply with statutory changes due to enactment of House Bill 182. The board is amending the rule to clarify that the department, not the board, provides and prescribes standardized application forms.

24.222.506 LICENSURE OF OUT-OF-STATE APPLICANTS (1) A license to practice speech-language pathology or audiology in the state of Montana may be issued at the discretion of the board provided the applicant completes and files with the board an application for licensure and the required application fee. The ~~candidate must meet the following requirements~~ applicant shall:

(a) ~~The candidate holds~~ hold a valid and unrestricted license to practice speech-language pathology or audiology in another state or jurisdiction, ~~which was issued under standards~~ upon determination by the board that the other state's or jurisdiction's license standards at the time of application to this state are substantially equivalent to or greater than current standards in this state. Official written verification of such licensure status must be received by the board directly from the other state(s) or jurisdiction(s);

(b) ~~The candidate shall~~ supply a copy of the certified transcript sent directly from a college, university, or institution approved by the board, including those programs accredited by the American Board of Examiners in Speech-Language Pathology and Audiology; and

(c) ~~The candidate shall~~ supply proof of successful completion of the a

~~currently accepted~~ national examination, ~~offered through the professional assessment for beginning teachers (PRAXIS series), educational testing services, Princeton, New Jersey. Candidate scores on the appropriate area of examination must be forwarded by PRAXIS directly to the board.~~

(2) A license to practice speech-language pathology or audiology in the state of Montana may be issued at the discretion of the board provided the applicant completes and files with the board an application for licensure and the required application fee, and provides proof the applicant holds the certificate of clinical competence of the American Speech-Language-Hearing Association in the area for which the ~~candidate~~ applicant is applying for a license.

(3) If an applicant for audiologist licensure is the holder of a valid and unrestricted license to practice audiology in another state, which was issued under standards equivalent to or greater than current standards in this state prior to January 1, 2007, the applicant will not be required to obtain a doctorate to qualify for licensure to practice audiology in the future in this state.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-1-304, MCA

REASON: The educational requirement for audiologist licensure is being amended effective January 1, 2007, from a master's in audiology to a doctorate degree in audiology to comply with a shift in national standards. The board determined that it is reasonably necessary to amend this rule to clarify that out-of-state licensed audiologists applying for Montana licensure after January 1, 2007, will not be required to obtain a doctorate level degree.

24.222.510 EXAMINATIONS (1) ~~Applicants shall be administered the take and pass a board accepted national examination offered through the national teacher examinations, educational testing service, Princeton, New Jersey.~~

~~(2) Arrangements and fees are the responsibility of the applicant.~~

~~(2) (3) It shall be the responsibility of the~~ The applicant to assure shall ensure that ~~his the~~ score on the ~~appropriate area~~ national examination is forwarded by ~~NTE~~ to the board. Applicants shall be notified of the board's decision concerning the examination following receipt of the examination score by the board.

~~(4) An applicant who fails his examination may be reexamined upon payment of another examination fee to the testing service.~~

~~(5) (3)~~ Applicants ~~must~~ shall also take and pass a jurisprudence examination as ~~composed and corrected~~ prescribed by the board, which measures the competence of the applicant regarding the statutes and rules governing the practice of speech-language pathology and audiology in Montana. The jurisprudence examination must be passed with a score of 95% or greater. Any applicant who fails the jurisprudence examination may re-take the examination two subsequent times. After a third failure, the applicant shall petition the board for each future re-examination.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-1-131, 37-15-303, ~~37-15-304~~, MCA

REASON: It is reasonable and necessary to amend the rule to comply with current national and board licensure examination procedures. The board does not administer a licensure examination, nor does the board accept payment or otherwise facilitate a licensure examination. The board has and will accept applicants' passage of any national speech-language pathology or audiology examination that is accepted under national standards. It is reasonably necessary to amend this rule to clarify these examination procedures.

24.222.513 INACTIVE STATUS AND REACTIVATION CONVERSION TO ACTIVE STATUS (1) A licensee may place the license on inactive status by paying the appropriate fee and either:

(a) indicating on the renewal form that inactive status is desired; ~~;~~ or
(b) ~~by informing the board office, in writing, that an inactive status is desired,~~
~~and paying the appropriate fee.~~

(2) ~~It is the sole responsibility of the~~ The inactive licensee ~~to~~ shall:

(a) renew annually; and
(b) keep the board informed as to any change of address during the inactive status period of time the license remains on inactive status.

~~(2) (3)~~ A licensee ~~may~~ shall not practice any speech-language pathology or audiology work in the state of Montana while the license is in an on inactive status.

~~(3) (4)~~ Upon application and payment of the appropriate fee, the board may ~~reactivate~~ consider an application to convert an inactive status license to an active status license if the applicant ~~does each of the following:~~

(a) signifies to the board, in writing, that upon issuance of the conversion to an active license, the applicant intends to ~~be an active practitioner~~ actively practice in the state of Montana; ~~;~~

(b) presents satisfactory evidence that the applicant has attended ten hours of continuing education which comply with the continuing education rules of the board for each year or portion of a year that licensee applicant has been inactive; ~~;~~

(c) submits certification license verification from the licensing body of all jurisdictions where the licensee applicant is licensed or has held a license during the inactive status period, documenting ~~practiced~~ that the applicant is either:

(i) in good standing and has not had any disciplinary ~~actions~~ action taken against the applicant's license; ~~;~~ or

(ii) ~~if the applicant is not in good standing by that jurisdiction,~~ an explanation of the ~~nature of the violation(s) resulting in that status;~~ ~~;~~ including the extent of the disciplinary ~~treatment~~ action imposed; ~~;~~ and

(d) remains the same.

AUTH: 37-1-131, 37-1-319, 37-15-202, MCA

IMP: 37-1-319, MCA

REASON: It is reasonable and necessary to amend the rule to comply with statutory changes from House Bill 182 which amended terminology and procedure for license renewal, lapse, expiration and termination as provided generally to all boards at 37-1-141, MCA. The board is amending the rule to address the conversion of inactive

status license to active status without use of the term "reactivate" which is now used differently following enactment of House Bill 182.

The board determined it reasonably necessary to amend the rule to require licensees on inactive status to renew annually. Currently inactive status licensees pay a \$50.00 renewal fee for a five-year inactive licensure period. The board staff encountered difficulty in utilizing the database parameters in tracking those on inactive status. Additionally, in order for board fees to be commensurate with board costs and to ensure a timely and accurate record of individuals on inactive status licensure, the board decided to require the annual renewal. Approximately four inactive status licensees per year will be affected by the rule change and will result in an estimated \$160.00 annual increase in revenue.

24.222.701 SUPERVISOR RESPONSIBILITY (1) All persons working in the capacity of a speech-language or audiology aide or assistant must be under the direct supervision of a fully licensed speech-language pathologist or audiologist. This supervisor assumes full legal and ethical responsibility for the tasks performed by the aide or assistant and for any services or related interactions with a client.

(2) When aides or assistants are providing direct services under a licensed supervisor to individuals under 18 years of age, the supervisor is responsible for so informing, in writing, the parent, guardian, surrogate parent, or person acting as a parent of a child in the absence of a parent or guardian.

(3) The speech-language pathology or audiology supervisor and/or appropriate administrative agency is responsible for ~~insuring~~ ensuring that the speech-language pathology or audiology aide or assistant is adequately trained for the tasks ~~he/she~~ the aide or assistant will perform. The amount and type of training required ~~should~~ must be based on the following:

(a) the skills and experience of the speech-language pathology or audiology aide or assistant; ;

(b) the needs of the patients/clients served; ;

(c) the service setting; ;

(d) the tasks assigned; and

(e) any other factors as determined by the supervising speech-language pathologist and audiologist.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-15-102, 37-15-313, MCA

REASON: The board determined it is reasonable and necessary to add "or assistant" throughout ARM 24.222.701, 24.222.702, and 24.222.703. This amendment is needed to comply with statutory changes in 37-15-102, MCA, pursuant to Senate Bill 451, wherein the definitions of individuals who meet certain minimum requirements and work directly under the supervision of licensed speech-language pathologists or audiologists were amended to include aides or assistants.

24.222.702 SCHEDULE OF SUPERVISION - CONTENTS (1) remains the same.

(2) Speech-language pathology aides or assistants shall be supervised in

accordance with their level of aide classification under the following schedule:

(a) aide I or assistant shall be supervised a minimum of 30% while performing diagnostic and interpretive functions in the first year of non-allowable activities. The supervision requirement will be 5% of client contact time, of which 2% shall be direct contact after the first year, at the discretion of the supervising speech-language pathologist;

(b) aide II or assistant shall be supervised 10% of client contact time, of which 5% shall be direct contact; and

(c) aide III or assistant shall be supervised 20% of client contact time, of which 10% shall be direct contact.

(3) Audiology aides or assistants shall be supervised in accordance with the following schedule:

(a) audiology aides or assistants shall be supervised under a proposed plan to be submitted by the supervisor with the aide application, but which shall include a minimum of 10% of client contact time; and

(b) industrial audiology aides or assistants shall be supervised under (3)(a) ~~above~~, but may be authorized to conduct pure tone air conduction threshold audiograms when performing outside the physical presence of a supervisor.

(4) remains the same.

(5) Each supervisor must also submit a supervisor summary form, as prescribed by the board, which lists each speech or audiology aide or assistant, number of hours, and other information as required by the board. The board will review the supervisor summary forms, which indicate a supervisor supervises three or more speech or audiology aides or assistants, for compliance with the appropriate ratio of supervisor hours as stated in the rules.

(6) The supervisor must complete a mid-year verification form by February 25 of each year, on a the supervisor's renewal form ~~supplied by the board~~, to indicate continuing compliance with the schedule of supervision previously filed under (1) ~~above~~.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-15-102, ~~37-15-202~~, 37-15-313, MCA

24.222.703 FUNCTIONS OF AIDES OR ASSISTANTS (1) The supervisor is obligated to ensure that the aide assist only in the provision of those services which are within the abilities of the aide as determined by the training and experience of that aide or assistant. The supervisor is directly responsible for all decisions affecting the client in all phases of diagnosis, treatment, and disposition. It is recognized that administrative responsibilities for ~~the an aide(s)~~ or assistant may be with other than the professional supervisor and those responsibilities are not included in this regulation.

(2) All speech-language pathology aides or assistants shall be under the appropriate supervision for their category of aide. Each aide or assistant shall comply with the following function guidelines for the appropriate aide category:

(a) aide I or assistant may:

(i) through (vii) remain the same.

(b) aide II or assistant may:

(i) through (vi) remain the same.

(c) aide III or assistant may:

(i) and (ii) remain the same.

(3) Speech-language pathology aides or assistants shall comply with the following guidelines on functions which are not allowed for the appropriate aide category:

(a) aide I or assistant may not refer clients to outside professionals;

(b) aide II or assistant may not:

(i) and (ii) remain the same.

(c) aide III or assistant may not:

(i) through (vii) remain the same.

(4) Speech-language pathologist aides I or assistants who are currently enrolled in a speech-language pathology master's program may perform nonallowable functions of aides I, under supervision, only if all of the following conditions have been met:

(a) through (c) remain the same.

(d) annual application for waiver of nonallowable functions of speech-language pathology aides I or assistants to the board for approval prior to commencement of performance as a speech-language pathologist aide I.

(5) Audiology aides or assistants and industrial audiology aides or assistants shall comply with the supervision plan and functions submitted by the supervisor at the time of application, and with all other statutory or rule requirements.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-15-102, 37-15-313, MCA

24.222.2101 POLICY (1) The board expects all licensees to undertake continuing educational activities which are recognized by ~~our professional organizations~~ the board as being of value in furthering professional competence.

AUTH: 37-1-131, 37-1-319, 37-15-202, MCA

IMP: 37-1-131, 37-1-306, MCA

REASON: The board determined that it is reasonable and necessary to amend the board's continuing education (CE) rules ARM 24.222.2101, 24.222.2102, and 24.222.2103 to clarify that the board will review and approve all available CE programs and coursework. The amendment follows the board's determination to set CE requirements for licensees rather than continuing to limit CE opportunities by adhering only to national associations' interpretation of acceptable CE. The board anticipates the proposed amendments will result in clearer and more user-friendly rules and will hopefully alleviate restrictions on licensees' ability to obtain acceptable CE offerings in this large rural state.

24.222.2102 CONTINUING EDUCATION REQUIREMENTS (1) Each licensee shall affirm completion of the required continuing education ~~hours~~ before February 1 of each odd-numbered year, on the renewal form. The board will randomly audit 10% of the renewed licensee's licensees' continuing education ~~hours~~

submitted each odd-numbered year. Certificates of completion for continuing education credits reported must be submitted upon request of the board.

(2) remains the same.

(a) Speech-language pathology or audiology - 40 continuing education units (CEU), ~~at least 25 of which must be obtained through approved sponsor programs or academic course work.~~

(b) Dual licensure - 50 continuing education units, 25 in each area. ~~Fourteen CEUs in each area must be sponsored.~~

(c) New licensees' continuing education units will be prorated accordingly at 1.66 hours per month licensed.

(3) remains the same.

(4) Licensees who serve as instructors in approved ~~sponsor~~ programs or academic courses may be allowed appropriate credit for ~~the program's first~~ one-time presentation ~~only~~. No credit will be allowed for repeat sessions.

(5) A licensee may apply for an exemption from the continuing education requirements ~~of these rules~~ by filing a statement with the board setting forth good faith reasons why the licensee is unable to comply with these rules and an exemption may be granted by the board. Each exemption application will be considered on a case-by-case basis.

(6) Speech-language pathology aides I or assistants shall complete 20 units of approved continuing education annually, ~~six of which must be sponsored as defined in ARM 24.222-2103,~~ and submit verification of the continuing education to the board at the time of registration. ~~Fourteen unsponsored~~ continuing education units may include on-the-job training as part of the supervision plan, and college coursework obtained through an accredited college or university.

(7) Speech-language pathology aides or assistants levels II and III shall submit verification of ten continuing education hours at the time of registration.

~~(7)~~ (8) Audiology aides and audiology industrial aides or assistants shall complete ~~six~~ ten units of approved continuing education annually, ~~two of which must be sponsored and four unsponsored as defined in ARM 24.222-2103,~~ and submit verification of the continuing education to the board at the time of registration.

(9) Approved continuing education must include content that is relevant to the scope of practice of speech-language pathologists and audiologists as defined in [NEW RULES IV and V].

(10) Continuing education activities sponsored by the following organizations, which are germane to the profession of speech-language pathologists and audiologists, are approved by the board:

(a) American Speech-Language Hearing Association (ASHA);

(b) Montana Speech and Hearing Association (MSHA);

(c) American Academy of Audiologists (AAA);

(d) Academy of Dispensing Audiologists (ADA); and

(e) Montana Audiology Guild (MAG).

(11) Acceptable activities shall include, but are not limited to:

(a) seminars;

(b) workshops;

(c) conferences;

(d) in-service programs;

(e) video or on-line course work; and
(f) correspondence courses accompanied by a study guide, syllabus, bibliography, and/or examination.

(12) The board shall consider continuing education activities as obtained via apprenticeship or plan of action on a case-by-case basis.

(13) All continuing education must be documented with evidence from the instructor or sponsoring organization.

(14) The board, at its discretion, reserves the right to deny credit for continuing education units that do not receive prior approval from the board.

AUTH: 37-1-131, 37-1-319, 37-15-202, MCA

IMP: 37-1-131, 37-1-306, 37-15-102, 37-15-309, MCA

REASON: It is reasonably necessary to add and clarify CE requirements for all levels of speech-language pathology and audiology aides and assistants. The board concluded that in the interest of the public's protection, it is necessary to require all levels of aides and assistants, who work consistently with members of the public, to obtain at least ten hours of annual CE.

24.222.2103 CONTINUING EDUCATION DEFINITIONS (1) and (1)(a) remain the same.

~~(b) "Approved sponsor program continuing education" means any continuing education activity approved by the board or sponsored by an organization, agency, or other entity which has been approved by the continuing education board, of the American speech-language-hearing association (ASHA) documented by the confirmation sheet, or approved by the American academy of audiologists (AAA) as documented by the confirmation sheet.~~

~~(c) "Unsponsored continuing education unit" means an educational activity that is directly oriented to improving the licensee's professional competence and is not obtained through approved sponsor programs or academic course work documented on forms provided by the board.~~

~~(d) remains the same but is renumbered (c).~~

~~(i) one continuing education unit received in an ASHA or AAA approved sponsor program shall be considered 10 continuing education units for purposes of this subchapter.~~

~~(ii) remains the same but is renumbered (i).~~

~~(e) remains the same but is renumbered (d).~~

~~(f) "License period" means the time between the issuance of a license or renewal and the date on which the licensee applies for renewal.~~

AUTH: 37-1-131, 37-1-319, 37-15-202, MCA

IMP: 37-1-131, 37-1-306, MCA

24.222.2301 UNPROFESSIONAL CONDUCT (1) The board defines "unprofessional conduct" as follows:

~~(1) Any of the following:~~

~~(a) practice practicing beyond the scope of practice encompassed by the~~

license;

(b) ~~practice~~ practicing beyond the level of practice for which the licensee is trained;

(c) accepting and performing occupational responsibilities which the licensee knows or has reason to know that ~~he or she~~ the licensee is not competent to perform;

(d) remains the same.

~~(2) (e) Violation of~~ violating statutory child abuse and elderly abuse reporting requirements;

~~(3) (f) Guaranteeing~~ guaranteeing the results of any speech or hearing therapeutic procedure;

~~(4) (g) Failing~~ failing to adequately supervise auxiliary staff to the extent that the client's health or safety is at risk;:

(h) failing to report the unsafe practice of speech-language pathology or audiology to the board, or to the appropriate facility; or

(i) failing to report unlicensed practice of speech-language pathology or audiology to the board, or to the appropriate facility.

AUTH: 37-1-131, 37-1-319, 37-15-202, MCA

IMP: 37-1-316, MCA

REASON: The board determined it is reasonably necessary to include in the definition of unprofessional conduct the failure of licensees to report other licensees' unsafe or unlicensed practice of speech-language pathology or audiology. The board concluded that it is within the professional responsibility of licensees to report such conduct and that the board better protects the public by requiring this reporting.

5. The proposed new rules provide as follows:

NEW RULE I FEE ABATEMENT (1) The Board of Speech-Language Pathologists and Audiologists adopts and incorporates by reference the fee abatement rule of the Department of Labor and Industry found at ARM 24.101.301.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 17-2-302, 17-2-303, 37-1-134, MCA

REASON: The board has determined there is reasonable necessity to adopt and incorporate by reference ARM 24.101.301 to allow the board to authorize the department to perform renewal licensure fee abatements as appropriate and when needed, without further vote or action by the board. The department recently adopted ARM 24.101.301 to implement a means for the prompt elimination of excess cash accumulations in the licensing programs operated by the department.

Adoption and incorporation of ARM 24.101.301 will allow the department to promptly eliminate excess cash balances of the board that result from unexpectedly high licensing levels or other nontypical events. Abatement in such instances will allow the licensees who have paid fees into the board's program to receive the temporary relief provided by abatement. Adoption of this abatement rule does not

relieve the board from its duty to use proper rulemaking procedures to adjust the board's fee structure in the event of recurring instances of cash balances in excess of the statutorily allowed amount.

NEW RULE II LICENSE RENEWAL (1) Each licensed speech-language pathologist or audiologist shall pay the board the fee for renewal of the license according to rules adopted by the department, subject to the provisions of 37-1-138, MCA.

(2) The department shall notify each person licensed under this chapter of the date of expiration of the license and the amount of the renewal fee. This notice must be mailed to each licensed speech-language pathologist or audiologist at least one month before the expiration of the license.

(3) A suspended license is subject to lapse, expiration, and termination and may be renewed as provided in 37-1-141, MCA, but such renewal does not entitle the licensee, while the license remains suspended, to engage in the licensed activity or in any other activity or conduct that violates the order or judgment by which the license was suspended.

(4) A license revoked on disciplinary grounds is subject to lapse, expiration, and termination and may not be renewed.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-1-141, MCA

REASON: House Bill 182 repealed section 37-15-308, MCA, the board's licensure renewal statute, as part of the bill's attempt to generally revise and consolidate professional and occupational licensing laws and distinguish duties regarding licensure, examination, and fees between the department and the particular boards or programs. It is reasonable and necessary to adopt New Rule II to address certain aspects of license renewal in administrative rule that was formerly included in the repealed statute and to further the intent of the legislation.

NEW RULE III QUALIFICATIONS FOR LICENSURE (1) To be eligible for licensing by the board as a speech-language pathologist, the applicant must:

(a) have completed a minimum of 75 semester hours of post-baccalaureate study that culminates in a minimum of a master's degree in speech language pathology or communication disorders. The graduate education in speech-language pathology must be initiated and completed in a program approved by the licensure board;

(b) demonstrate skills in oral and written communication, knowledge of ethical standards, research principles, and current professional and regulatory issues;

(c) have practicum experience that encompasses the breadth of the current scope of practice with both adults and children, resulting in a minimum of 400 clock hours of supervised practicum, of which at least 375 hours must be in direct client/patient contact and 25 hours of clinical observation;

(d) have a 36-week speech-language pathology clinical experience that establishes a collaboration between the clinical fellow and a mentor; and

- (e) pass a speech pathology examination as determined by the board.
- (2) In order to be licensed by the board as an audiologist:
 - (a) For applications made prior to January 1, 2007, an applicant shall:
 - (i) have completed a minimum of 75 semester credit hours of post-baccalaureate study that culminates in a minimum of a master's degree in audiology. The graduate education in audiology must be initiated and completed in an accredited program by the licensure board;
 - (ii) demonstrate skills in oral and written communication, knowledge of ethical standards, research principles, and current professional and regulatory issues;
 - (iii) have practicum experiences that encompass the breadth of the current scope of practice with both adults and children resulting in a minimum of 400 clock hours of supervised practicum, of which at least 375 hours must be in direct client/patient contact and 25 hours of clinical observation;
 - (iv) have a 36-week audiology clinical experience that establishes a collaboration between the clinical fellow and a mentor; and
 - (v) pass an audiology examination, as determined by the board.
 - (b) For applications made on or after January 1, 2007, an applicant shall:
 - (i) possess a Doctor of Audiology degree (Au. D.) or a Ph. D in audiology, from an accredited program approved by the board; and
 - (ii) pass an audiology examination as determined by the board.
 - (c) If the applicant is a holder of a valid Montana license prior to January 1, 2007, and maintains that license in good standing, the applicant will not be required to obtain a doctorate to maintain licensure to practice audiology in the future.

AUTH: 37-1-131, 37-15-202, MCA
IMP: 37-15-301, 37-15-303, MCA

REASON: Senate Bill 451 amended section 37-15-303, MCA, deleting reference to qualifications set by a national association and specifying that qualifications for Montana licensure as speech-language pathologists and audiologists are to be defined in board rule. It is reasonably necessary to adopt New Rule III to adequately and clearly delineate the educational, clinical, and employment requirements necessary for licensure by the board. The proposed qualifications are equal to the standards generally accepted as the national norm and comply with licensure requirements currently accepted by the board.

- NEW RULE IV AUDIOLOGY SCOPE OF PRACTICE (1) The scope of practice of audiology includes but is not limited to:
- (a) identification, assessment, management, and interpretation of auditory/vestibular disorders;
 - (b) otoscopic examination and external ear canal management for removal of cerumen in order to:
 - (i) evaluate auditory/vestibular disorders;
 - (ii) make ear impressions;
 - (iii) fit hearing protection or prosthetic devices; and
 - (iv) monitor the continuous use of hearing aids;
 - (c) administration and interpretation of behavioral, electroacoustic, or

electrophysiologic methods used to assess auditory/vestibular disorders;

(d) evaluation and management of children and adults with auditory processing disorders;

(e) supervising and conducting newborn screening programs;

(f) measurement and interpretation of sensory and motor evoked potentials, electromyography, and other electrodiagnostic tests for purposes of neurophysiologic intraoperative monitoring;

(g) provision of hearing care by selecting, evaluating, fitting, facilitating, adjustment to, and dispensing prosthetic devices for hearing loss, including:

(i) hearing aids;

(ii) sensory aids;

(iii) hearing assistive devices;

(iv) alerting and telecommunication systems; and

(v) captioning devices;

(h) assessment of candidacy of persons with hearing loss for cochlear implants and provision of fitting, and audiological rehabilitation to optimize device use;

(i) provision of audiological rehabilitation including:

(i) speech reading;

(ii) communication management;

(iii) language development;

(iv) auditory skill development; and

(v) counseling for psycho-social adjustment to hearing loss for persons with hearing loss, their families, and care givers;

(j) consultation to educators as members of interdisciplinary teams about communication management, educational implications, classroom acoustics, and large-area amplification systems for children with hearing loss;

(k) prevention of hearing loss and conservation of hearing function by designing, implementation, and coordinating occupational, school, and community hearing conservation and identification programs;

(l) consultation and provision of rehabilitation of persons with balance disorders using habituation, exercise therapy, and balance retraining;

(m) designing and conducting basic and applied audiologic research, and disseminating research findings to other professionals and to the public, to:

(i) increase the knowledge base;

(ii) develop new methods and programs; and

(iii) determine the efficacy of assessment and treatment paradigms;

(n) education and administration in audiology graduate and professional education programs;

(o) measurement of functional outcomes, consumer satisfaction, effectiveness, efficiency, and cost-benefit of practices and programs to maintain and improve the quality of audiological services;

(p) administration and supervision of professional and technical personnel who provide support functions to the practice of audiology;

(q) screening of speech-language, use of sign language, and other factors affecting communication function for the purposes of an audiological evaluation or initial identification of individuals at risk for other communication disorders;

- (r) consultation about accessibility for persons with hearing loss in public and private buildings, programs, and services;
- (s) assessment and nonmedical management of tinnitus using:
 - (i) biofeedback;
 - (ii) masking;
 - (iii) habituation;
 - (iv) hearing aids;
 - (v) education; and
 - (vi) counseling;
- (t) consultation to individuals, public and private agencies, and governmental bodies, or as an expert witness regarding legal interpretations of audiology findings, effects of auditory/vestibular disorders, and relevant noise related considerations;
- (u) case management and service as a liaison for consumers, families, and agencies in order to monitor audiologic status and management and to make recommendations about educational and vocational programming; and
- (v) consultation to industry on the development of products and instrumentation related to the management of auditory/vestibular function.

AUTH: 37-1-131, 37-15-202, MCA
IMP: 37-15-102, MCA

REASON: Senate Bill 451 amended the statutory definition of the practice of audiology at 37-15-102, MCA, to the "nonmedical diagnosis, assessment, and treatment services relating to auditory and vestibular disorders as provided by board rule" and deleted the specific services included in the practice of audiology. It is reasonably necessary to adopt New Rule IV to clarify and delineate the services constituting the practice of audiology and to further implement the legislation.

NEW RULE V SPEECH-LANGUAGE PATHOLOGY SCOPE OF PRACTICE

- (1) The scope of practice of speech-language pathology includes but is not limited to:
- (a) screening, identification, assessment, treatment, intervention, and provision of follow-up services for disorders of:
 - (i) speech, including articulation, phonology, fluency, and voice;
 - (ii) language, including morphology, syntax, semantics, pragmatics, and disorders of receptive and expressive communication in oral, written, graphic, and manual modalities;
 - (iii) oral and pharyngeal functions, including disorders of swallowing and feeding;
 - (iv) cognitive aspects of communication; and
 - (v) social aspects of communication;
 - (b) determination of the need for augmentative communications systems and provision of training in the use of these systems;
 - (c) planning, directing, and conducting or supervising programs that render or offer to render a service in speech-language pathology;
 - (d) provision of nondiagnostic pure-tone testing, tympanometry, and acoustic reflex screening, limited to a pass/fail determination;

(e) aural rehabilitation, including services and procedures for facilitating adequate receptive and expressive communication in individuals with hearing impairments;

(f) oral motor rehabilitation, including services and procedures for evaluating and facilitating face, lip, jaw, and tongue mobility and control;

(g) cognitive retraining, including services and procedures for evaluating and facilitating memory, attention, reasoning, processing, judgment, and other related areas in individuals with language impairment resulting from head injury, stroke, or other insult;

(h) dysphagia therapy, including services and procedures for evaluating and facilitating swallowing and feeding in those individuals with swallowing disorders;

(i) consultation to educators, parents, and related service providers as members of interdisciplinary teams about communication management and educational implications of speech/language disorders;

(j) education to the general public as a means of prevention;

(k) designing and conducting basic and applied speech-language pathology research, and the dissemination of research findings to other professionals and to the public, to:

(i) increase the knowledge base;

(ii) develop new methods and programs; and

(iii) determine the efficacy of assessment and treatment paradigms;

(l) education and administration in speech-language pathology (communication disorders) graduate and professional education programs; and

(m) administration and supervision of professional and technical personnel who provide support functions to the practice of speech-language pathology.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-15-102, MCA

REASON: Senate Bill 451 amended the statutory definition of the practice of speech-language pathology at 37-15-102, MCA, to the "nonmedical diagnosis, assessment, and treatment services relating to speech-language pathology as provided by board rule" and deleted the specific services included within the practice of speech-language pathology. It is reasonable and necessary to adopt New Rule V to clarify and delineate the services constituting the practice of speech-language pathology and to further implement the legislation.

6. The rules proposed to be repealed are as follows:

24.222.511 PASS/FAIL CRITERIA found at ARM page 24-26047.

AUTH: 37-15-202, MCA

IMP: 37-15-304, MCA

REASON: It is reasonably necessary to repeal this rule as the board does not now, and will not in the future, have any involvement in setting licensure examination passing scores, but only determines which examinations are accepted by the board.

24.222.512 WAIVER OF EXAMINATION found at ARM page 24-26048.

AUTH: 37-15-202, MCA

IMP: 37-15-305, MCA

REASON: It is reasonably necessary to repeal the rule as the board has never waived the requirement for successful completion of a licensure examination. The board has concluded that requiring a licensure examination is necessary for protection of the public by further ensuring that only qualified applicants are licensed as speech-language pathologists and audiologists in Montana.

24.222.704 UNLICENSED INDIVIDUALS found at ARM page 24-26064.

AUTH: 37-15-202, MCA

IMP: 37-15-313, MCA

REASON: House Bill 301 of the 1999 Legislative session provided for the registration of unlicensed persons working in schools or special education cooperatives and included a termination provision to be effective June 30, 2003. It is reasonable and necessary to repeal this rule regarding these unlicensed individuals to comply with the termination of the legislation.

7. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Speech-Language Pathologists and Audiologists, 301 South Park, P.O. Box 200513, Helena, Montana 59620, by facsimile to (406)444-2638, or by e-mail to dlibsdslp@mt.gov and must be received no later than 5:00 p.m., June 30, 2006.

8. An electronic copy of this Notice of Public Hearing is available through the department's site on the World Wide Web at www.slpaud.mt.gov under the Board of Speech-Language Pathologists and Audiologists rule notice section. The department strives to make the electronic copy of this notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version, only the official printed text will be considered. In addition, although the department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the comment forum do not excuse late submission of comments.

9. The Board of Speech-Language Pathologists and Audiologists maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the board. Persons who wish to have their name included on the list shall make a written request that includes the name and mailing address of the person to receive

notices and specifies that the person wishes to receive notices regarding all Board of Speech-Language Pathologists and Audiologists administrative rulemaking proceedings. Such written request may be mailed or delivered to the Board of Speech-Language Pathologists and Audiologists, 301 S. Park, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsdspl@mt.gov or may be made by completing a request form at any rules hearing held by the agency.

10. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled.

11. Darcee Moe, attorney, has been designated to preside over and conduct this hearing.

BOARD OF SPEECH-LANGUAGE
PATHOLOGISTS AND AUDIOLOGISTS
MARILYN THADEN, CHAIRPERSON

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 22, 2006.